

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 28, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and S. Beaux,
Deputy Clerk.

Each of the following:

B157853 People v. Barrios
B160770 People v. Medina
B160914 People v. Zepeda
B161587 People v. Jensen
B162140 People v. Daniel
B162153 People v. Bernard
B162541 People v. Jurcoane
B162676 People v. Thomas H.
B162943 DCFS. v. Mark Z.
B163179 People v. Sanders
B163546 People v. Perez
B164269 People v. Wade
B164926 DCFS v. April G.
B165188 People v. Moreno
B165627 People v. Zavala
B168952 Jacqueline E. v. SCLA (DCFS rpi)
B166348 DCFS. Juan L.
B169245 Tanjalika L. v. Superior Court/DCFS

Argument waived, cause submitted.

DIVISION ONE (Continued)

B160252 People
 v.
 Leon

Merits:
Robert C. Schneider, Deputy Attorney General, appeared for respondent and waived oral argument. No appearance for appellant. Cause submitted.

Mallano, J. leaves the bench.

B158331 People
 v.
 Hernandez

Merits:
Argued by Emry J. Allen for appellant and by Susan Sullivan Pithey, Deputy Attorney General, for respondent. Cause submitted.

B157327 People
 v.
 Chaffold

Merits:
Argued by Peter A. Vance for appellant and by Susan Kim, Deputy Attorney General, for respondent. Cause submitted.

B162580 White & Case
 v.
 Manatt, Phelps & Phillips

Merits:
Argued by Gregory A. Long for appellant and by Dean Dennis for respondent. Cause submitted.

Mallano, J. returns to the bench.

Vogel, J. leaves the bench.

DIVISION ONE (Continued)

B160096 Bradley
 v.
 Perrodin

Merits:
Argued by Fredric D. Woocher for appellant and by Bradley W. Hertz for respondent. Cause submitted.

B168327 Flores
 v.
 Superior Court, Los Angeles County
 (New Products of America et al., r.p.i.)

Merits:
Argued by Charles R. Sutton for petitioner and by Aaron Gundzik for real parties in interest. Cause submitted.

Vogel, J. returns to the bench.

Ortega, J. leaves the bench.

B161280 People
 v.
 Moore

Merits:
Argued by Jeffrey A. Needleman for appellant and by Gary A. Lieberman, Deputy Attorney General, for respondent. Cause submitted.

Ortega, J. returns to the bench.

Vogel, J. leaves the bench.

DIVISION ONE (Continued)

B162669 Reinhold Industries, Inc.
 v.
 Occupational Safety & Health Appeals Board, et al.

Merits:
Argued by David E. Rosenbaum for appellant, by Robert N. Villalovos
for respondent Occupational Safety and by Albert Cardenas for respondent
Dept of Industrial Relations. Cause submitted.

Vogel, J. returns to the bench.

Mallano, J. leaves the bench.

B155041 Coe
 v.
 City of Los Angeles, et al.

Merits:
Argued by Ester G. Boynton for appellant and by Lisa S. Berger, Deputy
City Attorney, for respondents. Cause submitted.

Mallano, J. returns to the bench.

Spencer, P.J. leaves the bench.

B159437 Cochran
 v.
 Tory, et al.

Merits:
Argued by Jean-Paul Jassy for appellants and by Karen Coffin for
respondent. Cause submitted.

Vogel, J. leaves the bench.

DIVISION ONE (Continued)

B164023 System Disposal, Inc.
 v.
 City of Huntington Park, et al.

Merits:
Argued by Frank Revere for appellant and by Mark Rochefort for
respondents. Cause submitted.

Vogel, J. returns to the bench.

Ortega, J. leaves the bench.

B157697 Michaels
 v.
 Wildenstein & Co., Inc.

Merits:
Argued by A. Charles Dell'Ario for appellant and by Curtis A. Cole for
respondent. Cause submitted.

Court recesses.

Court reconvened at 1:30 p.m.

Present: Spencer, P.J., Ortega, J., Mallano, J. and S. Beaux, Deputy Clerk.

B159267 Everest Investors, et al.
 v.
 McNeil Partners

Merits:
Argued by John A. Case, Jr. for appellants and by Miles J. Feldman for
respondent. Cause submitted.

DIVISION ONE (Continued)

B151339 Dalgarn
v.
Robbins, Dalgarn, Berliner & Carson, et al.

Merits:
Argued by James G. Jones for appellant Robbins, Dalgarn, Berliner & Carson, by Leonard d. Messinger appellant in propria persona, by Michael S. Elkind appellant in propria persona and by Lewis M. Dalgarn respondent in propria persona. Cause submitted.

Court adjourned.

B139901 People (Not for Publication)
v.
Tracy Batts, et al.

We reverse the true finding that Batts' prior felony assault with a deadly weapon conviction involved personal firearm use and thus constituted a prior strike conviction. We vacate defendants' sentences and remand for anew trial on Batts' reversed prior felony conviction and for resentencing for both defendants. In all other respects, we affirm the judgments.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B164926 Los Angeles County, D.C.S. (Not for Publication)
v.
April G.
In re Caesar G., et al., minors

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

B165182 Los Angeles County, D.C.S. (Not for publication)
v.
Sandra A.
In re Akkeya J., et al., minors

The orders made at the section 366.26 hearing are conditionally vacated, and the cause is remanded to the dependency court with directions to comply with the Indian Child Welfare Act by giving notice to the tribes, the Area Director of the Bureau of Indian Affairs, and the Secretary of the Interior; if not tribe responds that Akkeya and Whitney are Indian children, the orders shall be reinstated and deemed final.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B157853 People (Not for Publication)
v.
Tony Barrios

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

B166348 Los Angeles County, D.C.S. (Not for Publication)
v.
Juan L.
In re John Paul L., minor

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

DIVISION ONE (Continued)

B162943 Los Angeles County, D.C.S. (Not for Publication)

v.

Mark Z.

In re Margaret Z., a minor

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

B162140 People (Not for Publication)

v.

Calvin Daniel

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B163179 People (Not for Publication)

v.

Charles E. Sanders

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION ONE (Continued)

B166120 People (Not for Publication)
v.
Sylvester Floyd

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION TWO

B164309 People (Not for Publication)
v.
Padilla

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

B167227 Los Angeles County, D.C.S. (Not for Publication)
v.
Tammy M., et al.

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

October 28, 2003 (Continued)

DIVISION TWO (Continued)

B159807 Wright (Not for Publication)
v.
Stainback

The judgment is reversed. Stainback is entitled to costs on appeal.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B162755 Bugbee et al. (Not for Publication)
v.
Calvert

The April 4, 2002 order dismissing the Bugbees' lawsuit as a terminating discovery sanction is reversed. The October 8, 2002 order denying relief from the dismissal is reversed. The January 6, 2003 order of dismissal is reversed. Costs on appeal are awarded to the Bugbees.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

B166742 Bedrosian (Not for Publication)
v.
Tenet Healthcare Corporation

The judgment filed March 28, 2003, is modified to reflect the following: (1) LTIP damages for 1994 and 1995 of \$13,611,375; (2) SIP damages for 1994 and 1995 of \$48,510,000 as to restricted shares; (3) plus SIP damages for 1994 and 1995 of \$78,993,750 as to options; (4) prejudgment interest on those amounts accrued at the legal rate of interest from April 25, 1995, to March 28, 2003, totaling \$111,886,894.63; and (5) postjudgment interest at the legal rate of interest on the entire amount awarded until paid. As so modified, the judgment is affirmed. Bedrosian is entitled to costs on appeal.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

DIVISION FOUR

B161473 Kennedy (Not for Publication)
v.
Haber, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B163359 People (Not for Publication)
v.
Accredited Surety & Casualty Company

The judgment is reversed, with directions that the bail bond be exonerated.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B166555 Los Angeles County, D.C.S. (Not for Publication)
v.
Dana S.

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

DIVISION FOUR (Continued)

B166234 Los Angeles County, D.C.S. (Not for Publication)
v.
Jeannette B.

The order is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
 Hastings, J.

B162352 People (Not for Publication)
v.
Piper

The judgment is affirmed. The trial court is directed to prepare an abstract of judgment to reflect appellant was convicted in count 7 of unlawful possession of ammunition.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

B162573 People (Not for Publication)
v.
Walton

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
 Hastings, J.

October 28, 2003 (Continued)

DIVISION FOUR (Continued)

B164559 People (Not for Publication)
v.
Martinez

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

DIVISION FIVE

B162470 People v. Chang (Not for Publication)

The judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION SIX

B165918 Myers (Not for Publication)
v.
Toms

The judgment is affirmed. Costs to respondent.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

October 28, 2003 (Continued)

DIVISION SIX (Continued)

B160627 People (Not for Publication)
v.
Baker

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B166843 People (Not for Publication)
v.
Preciado

The judgment (order of commitment) is affirmed.

Perren, J.

We concur: Gilbert, P.J.
Yegan, J.

B161922 People v. Trotter (Not for Publication)

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B166393 People (Not for Publication)
v.
Keating

The order is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

DIVISION SIX (Continued)

B165783 City of Carson, et al. (Not for Publication)

v.

Worker's Compensation Appeals Board

Thompson, Respondent

The decision of the WCAB is annulled and the matter is remanded for recalculation of the penalty.

Coffee, J.

We concur: Yegan, Acting P.J.

Perren, J.

B166563 People (Not for Publication)

v.

Huerta

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.

Yegan, J.

B167222 People (Not for Publication)

v.

Mallloy

The judgment (order of commitment) is affirmed.

Coffee, J.

We concur: Gilbert, P.J.

Yegan, J.

DIVISION SIX (Continued)

B162493 AMEX Assurance Co.
 v.
 Allstate Insurance Co.

The court on its own motion orders rehearing of the decision filed on September 29, 2003.

B162493 AMEX Assurance Co. (Certified for Publication)
 v.
 Allstate Insurance Co.

The judgment is affirmed. Costs on appeal are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.
 Perren, J.

B143261 People (Not for Publication)
 v.
 Ambriz

On the first appeal we strike the restitution order to the House of Grace. In all other respects the judgment is affirmed. On the second appeal we reverse the judgment which reduced Ambriz's sentencing credits and remand for a hearing to decide whether reduction of the credits is appropriate.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

DIVISION SEVEN

B161469 People (Not for Publication)
v.
Fields

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

B167736 People (Not for Publication)
v.
Thompson

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

B159658 New Way Recycling Center (Not for Publication)
v.
City of Pasadena, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, J.

We concur: Perluss, P.J.
Munoz, J. (Assigned)

B162515 In re Ruiz on Habeas Corpus

Filed order denying petition for rehearing.